

The Judge found SCOPE advantageous to facilities-based competitive LECs, and they generally supported it, in part because SCOPE reduces both the amount of time and the cost for installation of cabling. On the other hand, the Judge found installation of a SCOPE arrangement remained a lengthy process--the interval is 76 business days, or approximately 60 business days if it is the second competitive LEC in an established SCOPE area. The Judge also warned that the security risk assumed by the competitive LECs using SCOPE is greater than in a traditional secured physical collocation environment.

The Judge also remitted for collaboration the competitors' request to modify SCOPE to permit them to run cross-connects among their installations, currently not allowed by Bell Atlantic-New York.<sup>36</sup> Competitive LECs protested that Bell Atlantic-New York requires them to purchase either its tariffed dedicated cable support or dedicated transit service to connect their equipment in the SCOPE offering, while in a shared collocation cage competitive LECs are free to cross-connect among their installations without restriction. This issue was explored by the parties during the collaborative sessions.

In collaboration, Bell Atlantic-New York agreed to offer competitive LECs the opportunity to connect to other competitors in a contiguous area of the central office by installing their own cabling on either their own dedicated or Bell Atlantic-New York's racking. This offering is approved. As to connection of non-contiguous installations, Bell Atlantic-New York offered this arrangement only where one competitive LEC is the record owner of the space in both locations.<sup>37</sup> This is an

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<sup>36</sup> See e.spire's Brief, p. 6; Tr. 269, 433; Bell Atlantic-New York Responses to Record Requests 15.5 and 19.

<sup>37</sup> Bell Atlantic-New York's offering is Appendix B. In the course of the collaboration, parties also agreed to a spectrum management protocol (Appendix C) to avoid communications signal interference resulting from the close proximity of carriers' cabling. No party objected to this protocol, and it

unwarranted limitation and is rejected.

The Judge also recommended, in light of security and network reliability concerns, that competitive LECs be required to place locked cabinets around their equipment or institute other security measures; and that the security problem be discussed in the scheduled collaboration. The collaborative group developed nine security options from which competitive LECs may choose, to match security to specific competitive LEC installations; and a model log to be signed by those with access to the SCOPE area.<sup>38</sup> With two modifications, the collaborative security recommendations are approved. First, the recommendation is approved that collocators clearly identify their equipment area; however, they need not be restricted to any particular identification method. Second, the recommendation to employ video surveillance equipment is approved; however, it need not be mandatory.

## 2. Discussion

As one offering in a menu of choices, SCOPE affords another physical collocation method entailing less space and investment than traditional physical collocation. With the addition of the security and cross-connection arrangements agreed to in the collaborative process, as modified herein, SCOPE will be approved.

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is adopted.

<sup>38</sup> The security options are attached as Appendix D.

Option III -- Identified Space Collocation (COVAD)

Under this proposal a collocator would install and maintain its own equipment in a defined space within the incumbent's central office, to purchase all services and combine all network elements. Competitive LEC equipment would be placed in identified racks dedicated to particular collocators; in this sense it is segregated from Bell Atlantic-New York's equipment. The equipment, installation and procedures involved would meet standard industry requirements. Collocators would pay pro-rata rental charges for the central office space utilized.

Since collocator personnel and equipment are not physically segregated from the incumbent's, alternative security arrangements are of particular significance in this proposal. An Intermedia variation is to allow competitive LEC personnel escorted by a Bell Atlantic-New York security escort into the incumbent's central office to access virtually collocated equipment.<sup>39</sup>

COVAD asserted this method made the best use of all available central office space, and argued that potential network security issues were overblown by Bell Atlantic-New York, suggesting security measures be tailored to the circumstances of each central office.

Some competitive LECs (e.spire and Intermedia) actively supported this proposal while Cablevision maintained that cageless collocation was "necessary if competitive LECs are to be able to compete."<sup>40</sup> Intermedia suggested the use of escorts furnished by the incumbent to resolve the security issue. Other competitive LECs, while not opposing this method of collocation, considered it subject to the shortcomings of other types of collocation for the purpose of combining unbundled network elements.

Bell Atlantic-New York urged that this method would

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<sup>39</sup> Intermedia's Brief, p. 7.

<sup>40</sup> Cablevision's Brief, p. 10.

deny it the ability to maintain adequate security over its own network facilities, considering the resulting risks to its network and customers to be unacceptable.<sup>41</sup> Bell Atlantic-New York emphasized the large number of competing carriers that would have access to its otherwise secure facility areas.

1. Proposed Findings and Exceptions

The Judge concluded that the record established COVAD's option was viable; however, the network security issues were troubling. On these issues, she concluded the record was not adequate to support a recommendation that Bell Atlantic-New York be required to provide this option, referring these issues to collaboration. On exceptions, Time Warner argues carriers willing to accept reduced security should have that option.

2. Discussion

In the course of the collaborative process, Bell Atlantic-New York offered collocation with escort.<sup>42</sup> The offering appealed to participating competitive LECs; however, objections were raised to the requirement that Bell Atlantic-New York central office technicians visually supervise competitive LEC or third-party vendors; the exclusion of central offices where Bell Atlantic-New York has already provided 200 square feet of physical collocation space; and the restriction of its use to obtaining Bell Atlantic-New York unbundled network elements.

The Bell Atlantic-New York collocation with escort offering effectively expands the menu of available collocation options and is approved, with modifications. In light of network reliability concerns, we will adopt the incumbent's supervision requirements. However, the restrictions to certain central

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<sup>41</sup> Bell Atlantic-New York's Summary Presentation, p. 5.

<sup>42</sup> This Bell Atlantic-New York offering is Appendix E. The inclusion of supervised third party vendors satisfies Intermedia's expressed concern that third party vendors be allowed.

offices and certain services limit this offering unnecessarily. This option should be available for all services purchased under intrastate tariffs and interconnection agreements.

Option IV -- Virtual Collocation (Bell Atlantic-New York)

Bell Atlantic-New York currently offers virtual collocation, an arrangement by which the competitive LEC purchases equipment it wishes to use, and Bell Atlantic-New York exclusively installs and maintains the equipment on the competitive LEC's behalf. This arrangement could be used by a competitive LEC to recombine loops and ports through the use of a remotely controlled cross-connect device, or robot. Once the device is installed, Bell Atlantic-New York loops and ports could be terminated on the equipment and the competitive LEC could remotely recombine them. Bell Atlantic-New York would use its existing "hot cut" procedures in connecting its network to the device.<sup>43</sup>

Virtual collocation arrangements are, of course, already used, and Bell Atlantic-New York uses this type of cross-connect device in its network, albeit not for element recombination. Bell Atlantic-New York indicated that two competitive LECs are currently implementing these systems in New York.<sup>44</sup> The implementation period for virtual collocation is 105 business days; however, with only 12 robots in service, the ability of CON-X to manufacture sizable quantities has not been tested. That company has been able to deliver a robot within 60 days of order.<sup>45</sup>

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<sup>43</sup> Bell Atlantic-New York provided a demonstration at the technical conference of this device, produced by CON-X Corporation (CON-X). This device can be mounted in a standard equipment relay rack in a Bell Atlantic-New York central office. Using a robotics arm, the device places or removes connections as directed by the competitive LEC from a remote work station. The CON-X robot can accommodate up to 1,400 loops, which it can connect to Bell Atlantic-New York and/or competitive LEC ports.

<sup>44</sup> Tr. 502.

<sup>45</sup> Tr. 512.

As to this method's ability to handle foreseeable volumes of transactions, Bell Atlantic-New York was enthusiastic; however, as to cost-effectiveness, Bell Atlantic-New York rated this method somewhat lower, allowing that if all a competitive LEC wanted to do was reconnect loops and ports other options might be less expensive.

As to the ease of migration of customers to competitors' facilities-based service, Bell Atlantic-New York was very positive, inasmuch as the CON-X robot allows for the simultaneous connection of Bell Atlantic-New York and competitive LEC ports. Migrating a customer from a Bell Atlantic-New York port to a competitive LEC port can be done quickly and remotely with the robot. Regarding ease of migration of customers to a second competitive LEC or back to the incumbent, Bell Atlantic-New York considers this method excellent for migration back to its system, but slightly less so for migration to another competitive LEC, similar to its ratings for the other collocation methods.

This method was rejected by all other parties. Generally, competitors saw it as adding another layer of expensive and potentially troublesome equipment into the network for the recombiners. This method also garnered considerable criticism from parties as to timeliness of provisioning. There was concern about the availability of robots and about the ability of competitive LECs to use the system without extensive training. Similarly, parties were unenthusiastic about this method's cost, stating that the system was really nothing more than an expensive pre-wired frame. Indeed, competitors saw no advantage--and saw considerable additional expense--in purchasing this equipment, as opposed to installing a pre-wired frame in a conventional virtual collocation arrangement.<sup>46</sup>

# 1. Proposed Findings and Exceptions

The Judge proposed finding that Bell Atlantic-New York's offering did not appear to meet the concerns of most competitors, and that the robot requirement added unnecessarily to virtual collocation costs. She referred to collaboration the issue of allowing competitors to provide pre-wired frames.

Parties did not reach agreement in the collaborative process. On exceptions, Bell Atlantic-New York objects to this option because its workforce would be responsible for all testing and maintenance, and it would be liable for performance failures.

It also notes that no competitor is currently seeking to use this method. Competitive LECs assert that they would compensate Bell Atlantic-New York for testing and maintenance.

## 2. Discussion

Although no competitor is seeking this option today, several indicated future interest; prewired frame may emerge as a viable market entry strategy. Because of the absence of immediate interest, Bell Atlantic-New York should make this option available on a Bona Fide Request basis.

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<sup>46</sup> See, for example, Tr. 526-527.



Option V -- Assembly Room and  
Assembly Point (Bell Atlantic-New York)

The assembly room and assembly point are innovative options that Bell Atlantic-New York proposed to offer competitive LECs who seek to combine Bell Atlantic-New York links and ports.

These options do not require the same conditioned space as traditional forms of collocation, and would therefore be less costly to competitive LECs not using any of their own elements. The assembly room would be located in an secure, unconditioned area of a Bell Atlantic-New York central office and could be shared by a number of competitive LECs.<sup>47</sup> The assembly point would be used in central offices where constructing an assembly room within the building is not feasible. The assembly point would offer competitive LECs the same technical means of combining Bell Atlantic-New York links and ports, but would either be mounted on the outside wall or pad mounted on the grounds of the central office.<sup>48</sup> The assembly room or point only provides access for voice grade loop and port combination.

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<sup>47</sup> Tr. 553-554.

<sup>48</sup> Bell Atlantic-New York has indicated that it may in some cases place an assembly point in an unsecured location within its central offices (Tr. 558, 570).

The assembly room or point would initially be subject to the same 76-business-day interval used for traditional physical collocation. Subsequent entrants would be able to obtain space in the assembly room or point more quickly.<sup>49</sup> Competitive LECs would be assigned a termination frame or portion of a termination frame, and could either pre-wire the frame or perform cross-connections as they acquire customers. The actual process of transferring a customer from Bell Atlantic-New York to the competitive LEC would be accomplished by Bell Atlantic-New York technicians performing a manual or hot cut. While Bell Atlantic-New York had yet to construct an assembly room or point by the close of this record, the technology involved is not new or complicated and it would not be difficult for Bell Atlantic-New York to demonstrate its ability to deliver this service.

Bell Atlantic-New York stated that the assembly room/point could handle reasonably foreseeable volumes, and that the assembly room/point was designed specifically for the combination of Bell Atlantic-New York loops and ports, and therefore highly cost efficient.<sup>50</sup> Because the assembly room/point would not require conditioning, it would be less costly to a competitive LEC seeking to combine Bell Atlantic-New York voice grade loops and ports than other collocation options, according to Bell Atlantic-New York's preliminary cost estimates.<sup>51</sup>

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<sup>49</sup> Bell Atlantic-New York's May 27, 1998 filing, p. 19.

<sup>50</sup> Tr. 561.

<sup>51</sup> Response to Data Request #22, as revised July 10, 1998.

Concerning whether the method minimized potential adverse impacts on end users, Bell Atlantic-New York noted that the assembly room/point offered a slightly less secure environment than traditional collocation.<sup>52</sup> Bell Atlantic-New York noted, however, that competitive LECs could install locking covers to be used within the assembly room for added security.<sup>53</sup>

Because the assembly room/point uses the same hot cut procedure as other methods of combining elements, end users should not be adversely impacted if competitive LECs choose this method over others.

Bell Atlantic-New York noted that it would be more difficult to migrate a competitive LEC customer from elements combined via an assembly room/point to the competitive LEC's facilities-based service than with the more traditional collocation options, and therefore rated this method lower in that category. As to migration back to Bell Atlantic-New York or to a competitive LEC using the Bell Atlantic-New York network, Bell Atlantic-New York rated the method very highly. For customers migrating to a facilities-based competitive LEC, Bell Atlantic-New York rated the method slightly lower, because the two competitive LECs would have to coordinate the cutover.<sup>54</sup> As with the question of moving a customer served by a competitive LEC via the assembly room/point to that competitive LEC's own facilities-based service, this transition could be difficult and has the potential to impact customer service.

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<sup>52</sup> Tr. 561.

<sup>53</sup> Tr. 572.

<sup>54</sup> Tr. 563.

As to timeliness of implementation competitors asserted that, in reality, this method of combining elements cannot be implemented quickly, particularly for the first competitive LEC in a given Bell Atlantic-New York central office. The interval for the initial competitive LEC would be 76 business days, and for subsequent competitive LECs or subsequent orders from the initial competitive LEC the interval would be 60 business days.<sup>55</sup>

Further, the same Bell Atlantic-New York personnel now responsible for the construction of physical collocation arrangements would be responsible for assembly rooms/points, and Bell Atlantic-New York has committed to provision only 15 to 20 collocation arrangements of all types per month.<sup>56</sup> Parties asserted that the assembly room/point cannot meet reasonably foreseeable volumes of competitive LEC orders for such arrangements statewide because the initial construction is so time-consuming.

According to competitors, certain element combinations, for example, the loop and transport combination, would not be accessible via this method. Nor would this option be available by competitors using a T1 loop to serve customers.<sup>57</sup> Competitors also correctly noted that this method would make it very difficult for competitive LECs to migrate customers to their own facilities, as a facilities-based competitive LEC would locate its equipment in conditioned space and the assembly room or point would be unconditioned space.<sup>58</sup> The competitive LEC would therefore have to have each customer's loop terminations moved from the assembly room/point to the collocated space.

#### 1. Proposed Findings and Exceptions

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<sup>55</sup> Tr. 556.

<sup>56</sup> Tr. 581-582.

<sup>57</sup> Tr. 590, 613; CompTel's Brief, p. 4.

<sup>58</sup> Tr. 600-601.

Overall, the Judge found the assembly room/point concept to be a creative, viable, economic way for competitive LECs to combine loops and ports in several central offices in the state. Because of the absence of any electronics in the assembly room/point,<sup>59</sup> she found, this method probably has the least potential to adversely affect Bell Atlantic-New York's network of any of the collocation options. Because of the time delay associated with the installation of new assembly rooms or points, however, the ALJ concluded this would not be a feasible statewide entry strategy for even one competitive LEC. She warned that if competitive LECs were to attempt to use this method on a broad scale, Bell Atlantic-New York could be hampered in its ability to deliver traditional collocation arrangements to facilities-based competitive LECs. Moreover, she noted, this offering is limited only to voice grade loop and port combinations. On balance, the ALJ proposed finding that assembly room and assembly point are innovative and useful offerings for lower-cost collocation; several competitors indicate a strong interest in using them. However, their limited applicability and substantial provisioning intervals do not make them effective for statewide mass market entry.

AT&T excepts to the Proposed Finding approving the assembly options noting that, because they are only available to combine voice grade loops and ports, they will not mitigate the loss of the platform for service to New York City business customers, likely to demand higher grade service.

## 2. Discussion

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<sup>59</sup> Tr. 576.

The assembly room and point option are economical for their limited purpose, contribute flexibility to the Bell Atlantic-New York menu, and will be approved. Several competitors indicate a strong interest in using them. However, they are unlikely to reduce competitive pressures for access to combination of elements to serve business customers.

Option VI -- Recent Change Capability (AT&T)

Recent change capability refers to software-based tools, comparable to those that allow a LEC to update and assign features and functions of its local switch. According to AT&T, the recent change capability is now used by incumbent LECs to disconnect a loop from the switch, that is, to sever service to a customer.<sup>60</sup> Recent change is also comparable to the services afforded a Centrex customer to sever, modify, add functions, or transfer service to an identified family of loops.

1. Feasibility--The Factual Issue

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<sup>60</sup> Falcone Affidavit, June 16, 1998, ¶¶105 et seq.

AT&T's proposal was that Bell Atlantic-New York develop or purchase software to allow competitive LECs to employ recent change technology to combine existing loops and ports on the same basis that Bell Atlantic-New York now does. AT&T conceded that this option was not readily demonstrable, although it suggested that Bell Atlantic-New York Centrex customers employ this technology to add or sever lines, add services, or transfer numbers.<sup>61</sup> As to recent change's ability to handle volume, AT&T asserted this method would be able to handle volumes in a manner and on a scale comparable to how presubscribed interexchange carrier changes--millions of transactions yearly--are now effected.<sup>62</sup> According to AT&T, the operation of recent change would be extremely cost effective, once developed, since it is an electronic rather than a manual method of recombining elements.<sup>63</sup>

AT&T asserted this method, because it minimizes manual loop manipulation, will minimize adverse impacts on end users.<sup>64</sup> A firewall, proposed AT&T, would protect the incumbent LEC by restricting competitor access to its customers and links.<sup>65</sup> AT&T describes its firewall security as standard: transactions are controlled based on the rights and privileges of the user logged into the firewall. Migration to another competitor or to the incumbent would be as simple as changing long distance providers as long as the other competitive LEC also has recent change access. Similarly, it would be simple to migrate back to the incumbent LEC.<sup>66</sup>

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<sup>61</sup> Tr. 672. AT&T estimated development time at roughly one year.  
Tr. 656.

<sup>62</sup> Tr. 678.

<sup>63</sup> Tr. 678-679.

<sup>64</sup> Tr. 680.

<sup>65</sup> Tr. 681-682.

<sup>66</sup> Tr. 684-686.

In a post-technical conference supplemental filing, CommTech, the vendor/developer of the software proposed by AT&T to implement recent change, explained that this new software would consist of a modification of its FastFlow system currently employed by LECs to allow Centrex customers to access the recent change process in the LEC switch. Bell Atlantic-New York acknowledged the capability of Centrex customers to make limited changes to the switch, using Macstar.<sup>67</sup> However, it estimated the development time required for this to be implemented on the scale contemplated here as "a number of years".<sup>68</sup> As to cost, Bell Atlantic-New York asserted that the front-end development costs for the firewall, as well as the competitive LEC interface, render recent change prohibitive.<sup>69</sup> Bell Atlantic-New York suggested that its legacy systems are complex, and difficult to modify,<sup>70</sup> listing the systems a firewall system would need to reference in order to effect the changes required to move a customer from the incumbent to a competitor, or between competitors. According to Bell Atlantic-New York, millions of lines of code would have to be written to realize the system modifications required for recent change. In response to AT&T's supplemental filing concerning its recent change proposal, Bell Atlantic-New York asserted that recent change is inadequately documented, ambitious, and burdensome.

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<sup>67</sup> Tr. 747-748.

<sup>68</sup> Tr. 755.

<sup>69</sup> Bell Atlantic-New York's Summary Presentation, p. 13, n. 25.

<sup>70</sup> Albert Affidavit, July 10, 1998.



Bell Atlantic-New York also stressed AT&T's admission that this approach imposes a risk of significant customer outages, with some customer outages inevitable due to problems between the processing of messages to suspend and restore service.<sup>71</sup> Bell Atlantic-New York asserted that, inasmuch as the recent change proposal will, according to the vendor, work best if operated by Bell Atlantic-New York itself through its provisioning system, the proposal was little more than a loop and port combination provided by Bell Atlantic-New York.<sup>72</sup> Facilities-based competitors viewed recent change as violative of parity because it potentially relieved competitors without their own facilities from the burden and risk associated with manual interconnection.

The Judge concluded that, while AT&T had failed to present a convincingly detailed case for recent change, its fundamental assertion was well founded: an electronic method for obtaining and combining network elements, or a comparable substitute, appeared essential for mass market competition. Because of the importance of exploring and developing software methods for competitors to obtain and combine unbundled network elements, she remitted this issue for collaboration.<sup>73</sup>

On exceptions, WorldCom asserts Bell Atlantic-New York must make recent change available and, with DOD, excepts to the failure to establish a date certain by which it must be provided.

TRA, on exception, reiterates that only recent change offers competitors parity. AT&T stresses the increased likelihood of human error attendant upon adding numerous manual, mechanical connections, compared to developing an electronic recombination method.

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<sup>71</sup> Albert Affidavit, ¶9, quoting AT&T's Comments, p. 67.

<sup>72</sup> Albert Affidavit, ¶18, citing CommTech Affidavit, ¶8.

<sup>73</sup> The Judge also recommended that the costs of development of recent change should be borne, at least in part, by competitive LECs. Time Warner seeks clarification that development costs should be apportioned based on competitors'

In the course of the collaborative discussions, AT&T developed its proposal in greater detail and depth. Parties differed dramatically, however, as to the time necessary to develop the recent change method.

2. Physical Separation and Reconnection--  
the Legal Issue

Bell Atlantic-New York asserted the Act and the Eighth Circuit decision require a physical separation or unbundling of network elements, and a concomitant physical recombination of these elements by competitors. In its view, AT&T's recent change proposal or, for that matter, any method not entailing physical, manual disconnection of the loop from the port, fails the Eighth Circuit test. AT&T replied that taking the customer out of service by electronic, as opposed to manual, means complied with the Eighth Circuit requirements.<sup>74</sup>

Judge Stein recommended that while ubiquitous, timely recombination of elements, consistent with mass market entry, is essential, that requirement was best fulfilled in New York at this time by the Pre-filing terms and conditions, in conjunction with Bell Atlantic-New York's other offerings. In her view, the only electronic method under consideration for competitors to combine elements themselves, AT&T's recent change proposal, was insufficiently developed to be adopted at this time. She suggested further exploration of the development of this option in relation to the incumbent's existing or legacy systems in the collaborative phase.

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use of recent change during its first year.

<sup>74</sup> In MCI's view, by contrast, neither the incumbent nor the AT&T options comply with the Act; MCI urges the Commission to hold that only by providing competitors with specific already-combined elements will Bell Atlantic-New York be consistent with §251(c)(3). As this proceeding was narrowly defined to consider options for competitor recombining of elements, MCI's proposals were not admitted at the technical conference.

As a threshold matter, the Judge recommended the finding that an electronic system that functionally unbundles and recombines elements complies with the Act, noting the Eighth Circuit wording that a competitor need not have facilities of its own in order to obtain access to the incumbent's network elements.<sup>75</sup>

On exceptions AT&T, TRA, WorldCom and CompTel assert that only with recent change or a comparable electronic technology will Bell Atlantic-New York comply with the Pre-filing and the Act.

Bell Atlantic-New York and Time Warner except to the Judge's recommendation that electronic unbundling and recombination fulfill the requirements of §251(c)(3) of the Act.

In Bell Atlantic-New York's view, the recommendation to approve functional rebundling is unacceptable, as the unbundled loop and switch port are physical elements that must be physically combined by competitive LECs to be used. It reiterates its view that the first principle of elements is that they are physically defined, and that simply turning off the line at the switch via a software command does nothing to disconnect the loop and port. In its view, the Judge's recommendation improperly eliminates the Act's distinction between resale and unbundled network element purchase, and would move the competitive LEC industry away from facilities-based competition. MCI, although not excepting, requests clarification that Bell Atlantic-New York's commitment to provide recombination at parity does not expire with the Pre-filing and, conversely, that a Bell Atlantic-New York provision of a software recombination method does not obviate the Pre-filing platform commitment.

### 3. Discussion

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<sup>75</sup> The term "network element" includes "features, functions, and capabilities." See 47 U.S.C. §153(29).

Based on the record before us, taken in conjunction with the platform, Bell Atlantic-New York's collocation-based menu should enable competing carriers reasonable and non-discriminatory access to unbundled elements in a manner that ensures their practical and legal ability to combine them. This finding is conditioned on Bell Atlantic-New York demonstrating its ability to process and deliver collocation-based orders in a timely and reasonable manner. Thus, assuming these conditions are met, the company will satisfy this Pre-filing obligation. Because we will not require Bell Atlantic-New York to build recent change capability at this time, it is premature to decide this legal issue.

This Commission has long been committed to the development of a fully competitive local exchange market; to wit, multiple carriers providing a full range of services throughout New York State.<sup>76</sup> Such a market cannot develop unless customers are able to switch easily to the local exchange provider offering the service, price and quality options that best meets their needs. As we move to a fully competitive local exchange market, we will periodically revisit our finding that if Bell Atlantic-New York's collocation-based recombination offerings satisfy the standards described above they, in conjunction with the platform required by the Pre-filing, will comport with Bell Atlantic-New York's recombination commitment.

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<sup>76</sup> Case 94-C-0095, Regulatory Framework for the Transition to Competition in the Local Exchange Market, Opinion No. 96-13, pp. 2-3 (issued May 22, 1996).

Our periodic review will focus, in particular, on whether the collocation-based methods allow competitive LECs to combine elements to provide service. If the collocation-based methods have provided adequate entry for a wide range of competitors, as we expect, additional action will not be necessary. If, however, competing carriers do not "have reasonable and non-discriminatory access to unbundled elements in a manner that provides competing carriers with the practical and legal ability to combine unbundled elements"<sup>77</sup> we will act.

While our desire to encourage the development of facilities-based competition and preserve investment by facilities-based entrants will cut against extension or replacement of offerings resembling the platform, our overriding policy of fostering an open competitive market will result in corrective action, if necessary, to ensure that competitive LECs have access to unbundled elements in a manner that enables them to combine elements to provide service. Any responsive action on our part will depend on the status of the factors affecting opportunity for competitive entry.

Accordingly, while we do not order Bell Atlantic-New York immediately to build recent change capability, we believe the incumbent should continue productive discussions with all interested parties, and Staff, and apprise us periodically of its progress. We do not reach the question of cost allocation for the development of recent change capability; however, we expect competitive LECs to recognize that, generally, competitors using such technology would be expected to shoulder a proportionate share of the cost, consistent with principles of competitive neutrality and cost causation.

THE TWO-COLLOCATION CENTRAL OFFICES

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<sup>77</sup> Bell Atlantic-New York Pre-filing, p. 10.

In its Pre-filing, Bell Atlantic-New York undertook to provide the complete unbundled element platform for the provision of residence and business POTS and ISDN service, subject to time and geographic restrictions. Specifically, the platform will be provided for a duration of 4 years in zone 1, and 6 years in zone 2,<sup>78</sup> except that, in central offices in New York City where two or more competitive LECs are collocated to provide local exchange service through unbundled links at the start of the duration period, the platform will not be available for business customers.<sup>79</sup> At the time of the proposed tariff filed by Bell Atlantic-New York on July 23, 1998, eleven central offices met this definition.<sup>80</sup>

#### Proposed Findings and Exceptions

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<sup>78</sup> Zone definitions are as established by the Commission in Cases 94-C-0095, 95-C-0657, and 91-C-1174.

<sup>79</sup> The duration periods start with the demonstration of availability of certain operations support system upgrades.

<sup>80</sup> These were: Second Ave., Bridge St., Broad St., East 30th, 37th, and 56th Streets, West 18th, 36th, 42nd, and 50th Streets, and West Street. New York Telephone Company P.S.C. No. 916, Section 5, Appendix B, Original Page 1.

The Judge found that Bell Atlantic-New York's proposed methods for competitors to combine elements, with the provision of the platform in all but this limited number of offices, would give competitors a viable market entry strategy statewide and afford end users choice among providers. For the limited number of offices in which the platform will not be available for service to business customers, she found, Bell Atlantic-New York's methods for combining elements would likely be sufficient for those carriers not already collocated in the affected offices. However, before Bell Atlantic-New York can be found to meet the Pre-filing standard, the ALJ concluded, Bell Atlantic-New York should demonstrate that the main distribution frames in each of these offices have sufficient capacity, or can be expanded in a timely manner, to handle reasonably foreseeable volumes of cross-connects, and should provide us and the parties the specifications as to space constraints in each of those offices, and guarantees that there is sufficient space available for an acceptable range of recombination options.

AT&T, Sprint, Qwest/LCI, RCN, and LCN, joined by MCI, except to what they view as business service restrictions on the UNE platform in New York City: the restriction of the platform to POTS and basic rate ISDN; the prohibition of UNE platform for business customers in the two-collocation central offices; and the duration of the offering and glue charges in the Pre-filing.

In these competitors' view, the Pre-filing commits Bell Atlantic-New York to provide the platform in all locations without charge until it demonstrates competitors have nondiscriminatory access to elements to recombine them, and the Judge incorrectly recommended that the current offerings, plus the Pre-filing, were adequate to protect competitors seeking to serve business customers.

AT&T also excepts to the proposed finding that the menu of options is sufficient to trigger the Pre-filing restrictions.

In AT&T's view, Bell Atlantic-New York failed to demonstrate recombination is commercially available for serving business customers in these two collocation central offices. It also excepts to the Judge's refusal to recommend a conclusion on the legal issues as to whether the two-collocation business restriction is precluded by the Act requirement that competitive LECs have access to elements at any technically feasible point.

#### Discussion

The Pre-filing cannot be read to require that Bell Atlantic-New York provide unlimited collocation opportunities or make every recombination method equally available at every central office. The two-collocation office exception to the availability of the platform for business customers, embodied in the Pre-filing, recognizes that for those customers, in those areas, there is already a significant measure of competitive access and competitor investment. Similarly, the exclusion of Centrex service from the platform offering reflects that this service is already available on a competitive basis. Approval of the Bell Atlantic-New York menu of recombination offerings will not be final until it demonstrates that an acceptable range of recombination methods is available to serve business customers in those New York City offices in which two competitors are already collocated.

#### CONCLUSION



We are adopting every technically feasible method available today for competitive LECs to access element combinations to provide service. Based on an examination of the technologies, terms, and conditions of specific methods currently available for obtaining and combining unbundled network elements, we find that the menu of collocation-based options, as modified herein, can be considered adequate to support recombination of elements to serve residential and business customers on a mass market basis, in conjunction with the provision by Bell Atlantic-New York of the platform, on the Pre-filing terms. Upon certain additional demonstrations competitive local exchange carriers may be deemed to have reasonable and nondiscriminatory access to unbundled elements in a manner that enables them to be combined.

These demonstrations consist of: (1) Bell Atlantic-New York's ability to provision all collocation-based forms of recombination, as modified in this order; (2) the provision of the unbundled network element platform under the terms and conditions established in the Pre-filing; (3) resolution by this Commission of issues related to the No. 916 tariff; and (4) the demonstration by Bell Atlantic-New York that competitors will have access to a satisfactory range of collocation alternatives to serve business customers in those New York City central offices in which two competitive LECs are collocated.<sup>81</sup>

The Proposed Findings are adopted insofar as consistent with this Opinion and Order; and the exceptions are denied, except insofar as granted herein.

The Commission orders:

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<sup>81</sup> Bell Atlantic-New York Pre-filing, p. 9, n. 9, 10.

1. The Bell Atlantic-New York SCOPE proposal is modified to adopt the recommendations of the collaborative group as to security and cross-connection arrangements and as detailed herein. Bell Atlantic-New York should reflect this determination in its compliance filing with respect to Tariff No. 916 in Case 95-C-0657.

2. Bell Atlantic-New York is required to provide, in its No. 916 tariff compliance filing in Case 95-C-0657, the COVAD identified space collocation method, incorporating the Bell Atlantic-New York collocation with escort offering, so modified as to be available for all services purchased under intrastate tariffs and interconnection agreements, at all central offices where such method is technically feasible, with line-of-sight supervision by Bell Atlantic-New York personnel.

3. Bell Atlantic-New York is required to provide, in its No. 916 tariff compliance filing in Case 95-C-0657, an offering of virtual collocation with a pre-wired frame on a Bona Fide Request basis.

4. The proposed methods for competitive LECs to obtain and combine Bell Atlantic-New York unbundled network elements, as modified herein, in conjunction with the provision by Bell Atlantic-New York of network element combinations pursuant to its Pre-filing Statement, comport with Bell Atlantic-New York commitments. Upon approval of the No. 916 tariff amendments and verification of compliance with the competitive checklist pursuant to 47 U.S.C. §271(c)(2), these methods will be deemed approved.

5. These proceedings are continued.

By the Commission,

(SIGNED)

ROBERT A. SIMPSON  
Assistant Secretary